

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CHARLES B. SILLS,
Plaintiff,

v.

No. CV-11-0793 CG

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

ORDER GRANTING EAJA FEES

THIS MATTER comes before the Court on Plaintiff's *Motion for Attorney Fees Under Equal Access to Justice Act With Memorandum in Support Thereof*, (Doc. 25), and Defendant's *Response to Plaintiff's Motion for Attorney Fees Pursuant to EAJA*, (Doc. 26). Plaintiff has requested reimbursement for attorney fees in the amount of \$4,620.65 pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. (Doc. 25 at 1-3). Defendant does not oppose the motion. (Doc. 26 at 1-2)

IT IS THEREFORE ORDERED that Plaintiff's *Motion for Attorney Fees Under Equal Access to Justice Act With Memorandum in Support Thereof*, (Doc. 25), be **GRANTED** and that Plaintiff Charles B. Sills¹ is authorized to receive **\$4,620.65** in fees for payment to his attorney for services before this Court.²

¹ See *Manning v. Astrue*, 510 F.3d 1246, 1251 (10th Cir. 2007) (requiring EAJA fees to be paid to the claimant).

² In the future, if Mr. Sills' counsel is also awarded attorney fees pursuant to 42 U.S.C. § 406(b), she shall refund the smaller award to Mr. Sills pursuant to *Gisbrecht v. Barnhart*. 535 U.S. 789, 796 (2002) ("Fee awards may be made under both [EAJA and § 406(b)], but the claimant's attorney must refund to the claimant the amount of the smaller fee." (internal quotation marks and alteration omitted)).

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal flourish extending to the right.

THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE